

August 9, 2005

MICHAEL MORGAN  
3611 SW 311<sup>TH</sup> LANE  
FEDERAL WAY WA 98023

Subject: Complaint Filed Against David Tracy

Dear Mr. Morgan:

I have reviewed your complaint against David Tracy, received July 19, 2005. In the complaint, you alleged that David Tracy did not file his Candidate Registration Statement (PDC form C-1) within two weeks of the date that he announced his candidacy for Federal Way Municipal Court Judge in the local media. In addition, you alleged that Mr. Tracy has made false claims of incumbency in his political advertising by stating that he is seeking to “*retain his position.*”

In response to your allegations:

- David Tracy filed his C-1 registration on May 23, 2005. The earliest contribution and expenditure activity reported by his campaign was a loan of \$4,000 by Mr. Tracy on May 12, 2005. His registration was filed within two weeks of the date his campaign undertook this activity. You said a newspaper article stated that Mr. Tracy announced his candidacy for Municipal Court Judge in March 2005. However, you provided no evidence to support your allegation. Even if there is evidence that Mr. Tracy announced his candidacy in March 2005, his C-1 has been on file since May 23, 2005, which is several months before the election.
- David Tracy is a Municipal Court Judge in Federal Way. A staff member of the Federal Way Municipal Court stated that Mr. Tracy has held this position as an appointee since the creation of the court, and that the position of Federal Way Municipal Court Judge has now become an elected position. This staff member confirmed that the duties of the position remain the same, just the means of obtaining the position have altered. Given these facts, there is no basis for concluding the elected position is different from the appointed one, whether the hours are part-time or full-time.
- As is stated in WAC 390-18-040, “[t]he term ‘retain’ in a political advertisement represents that the candidate is the incumbent but does not imply that the

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*candidate attained the office by election.*” Mr. Tracy is the incumbent because he now holds the position which is being filled by election this fall. As such, the term “retain” is appropriate for Mr. Tracy to use.

After a careful review of the alleged violations and relevant facts, we have concluded our review and, with the concurrence of the Chair of the Public Disclosure Commission, I am dismissing your complaint against David Tracy.

If you have questions, you may contact Phil Stutzman at (360) 664-8853 or toll free at 1-877-601-2828 or by e-mail at [pstutzman@pdc.wa.gov](mailto:pstutzman@pdc.wa.gov)

Sincerely,

Vicki Rippie  
Executive Director